

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING  
February 23, 2016

A public hearing of the Zoning Board of Adjustment was held on Tuesday, February 23, 2016 at 6:30 PM in Room 208, City Hall.

Members in attendance were:

Gerry Reppucci, Chair  
Jack Currier, Vice Chair  
J.P. Boucher, Clerk  
Rob Shaw  
Kathy Vitale

Carter Falk, AICP, Deputy Planning Manager/Zoning

Mr. Reppucci explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Reppucci explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Reppucci also explained procedures involving the timing light.

- 1. Ballinger Properties, LLC & BT Realty Limited Partnership, Joanne Charron and Towers Motor Parts Corporation of Nashua (Owners) 242 Main Street, 1 & 5 East Hollis Street (Sheet 31 Lots 1, 2 & 6) requesting the following variances: 1) to allow an electronic changing message center sign on a portion of a new ground sign, 2) to exceed maximum ground sign height, 10 feet allowed, 24 feet proposed, 3) to exceed maximum ground sign area, 50 sq.ft allowed, 88 sq.ft proposed, 4) to exceed maximum wall sign area, 100 sq.ft allowed, 112 sq.ft proposed, 5) to allow an additional wall sign on the building, two permitted, an additional wall sign proposed for eastern façade for a total of three wall signs, and 6) to exceed maximum wall sign area, a total of 200 sq.ft allowed, 285 sq.ft proposed for all three wall signs. D-1/MU Zone, Ward 4. [ONLY VARIANCES #2 AND #3 TABLED FROM 1-12-16 ZBA MEETING]**

Voting on this case:

Gerry Reppucci  
Jack Currier  
J.P. Boucher  
Rob Shaw  
Kathy Vitale

Mr. Reppucci stated that the only variances being considered this evening are for #'s 2 and #3.

Attorney John Sokul, Hinckley Allen, P.A., Concord, NH. Atty. Sokul said that some of the variances have already been approved for this case for the wall signs. He said that they've withdrawn their request for the electronic changing message sign already, and with input from the Board, they have re-evaluated the ground sign request. He said that a 24 foot tall sign was proposed, and also, instead of an 88 square foot in area, now the area proposed is 50.56 square feet, with a height of 15 feet, which is more in keeping with other pylon signs in the area.

Atty. Sokul said the ground sign at 240 Main Street is 19.56 feet. He said the sign at Main Street Marketplace is 22 feet, and the Walgreens sign is at 15 feet in height. He said that they also revised the base of the sign to have a brick color to match the building, and changed the roof of the sign to have a little roof to match the building. He said the height of 15 feet is to the top peak of the sign, so the top of the text is about 12'-6".

Mr. Shaw asked if the bottom portion is real brick.

Atty. Sokul that they will be real bricks.

Mr. Reppucci asked if the Southern New Hampshire sign is there, it looks as if it's right in front of the proposed sign. He said he's referring to the drawing with the CVS sign superimposed on it that was just submitted.

Atty. Sokul said yes, it is the approximate location of the proposed sign.

Mr. Reppucci asked why the sign would be so far in from the sidewalk.

Atty. Sokul said it is there to meet the minimum setback.

Ms. Vitale said she appreciated them taking a second look at the sign, and coming in with the revised drawings.

Mr. Shaw asked to confirm that the sign is right at the ten foot setback.

Atty. Sokul agreed.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

Mr. Currier asked about an email from Sarah Marchant about the sign, and wondered if it should be entered into the record.

Mr. Reppucci said he reached out to the City, asking for any comments on what the planners would like to see for a ground sign on Main Street, for a long term picture on Main Street.

Mr. Currier said that Mr. Reppucci solicited the city, and received a response, so it should be part of the record.

**MOTION** by Mr. Reppucci to allow Atty. Sokul to respond.

**SECONDED** by Mr. Currier.

**MOTION CARRIED UNANIMOUSLY 5-0.**

Atty. Sokul said he'd like to see the document, so that he can respond to it.

Mr. Shaw read Ms. Marchants email into the record.

Mr. Reppucci said that email was sent to the Planning Department, it wasn't sent to the Board.

Atty. Sokul said he doesn't have anything to add, he said that they've made their case, they made their revisions as suggested by the Board.

Mr. Reppucci said for the analysis of the other signs, the Marketplace sign is in a completely different zone, GB, which allows larger signs. He said that the Walgreens sign is not really what he considers a downtown center of Nashua site, is very unattractive.

Mr. Reppucci said that even if the sign were taller, the trees and landscaping and the Southern New Hampshire sign would block it.

Mr. Shaw said it could be smaller if it was brought in from the setback, but then there would be another relief issue, and then the potential safety hazard from someone trying to turn left out of the parking lot onto Main Street, and have blocked visibility if the sign were to be pulled forward. He said that when you look at the south elevation drawing, on the façade, there is no real visible identifying signage on that side of the building, and perhaps it's preferable to have a wall sign there. He said that the ground sign will going to be obscured by trees, or set further back, or something being built in that parking lot. He said that the proposed sign is probably the best compromise, the sign is tastefully done, and the size is ok, and it's a minor incursion to the height. He said architecturally, it has nice features, and the height really isn't imposing, and is generally ok with it, it's reasonable.

Mr. Reppucci said that he almost wishes that the Board didn't approve the wall signs until they've looked at the final package. He said in looking at the photo of what it would look like, the pharmacy 24Hrs part of the signs are gigantic. He said that the purpose of signs is for identification, to know where the place is. He said it's reasonable to say that everyone knows what CVS is, and if they just said CVS 24Hrs, they'd be less than half the size. He said it would be best if there was a CVS logo right on the southern wall of the building, it would be better than the ground sign. He said it's understood that they'd need a variance for another wall sign. He said he has concerns about the design, it's in behind of another sign, and the trees are small, but they won't be small forever. He said that he's just not certain that the sign will work.

Mr. Currier said that the proposed sign looks a lot better, and appreciated them submitting it to the Board. He said that the Marketplace sign further down is a different type of center, and it's in a different zone. He said he values Director Marchant's input on the sign.

Ms. Vitale said she also would prefer that the pharmacy text was off of the wall signs, and didn't think of it at the time. She said coming north on Main Street, if it were at the ten foot

height, it wouldn't be effective at all, and wouldn't really serve any purpose, it was great to see the superimposed photo. She said the sign is tasteful size-wise, and the look is appropriate and the overall aesthetics are good.

Mr. Boucher said that he's in favor of the application as it stands. He said it's much softer now. He said a parking garage may not be built for twenty or more years, but this sign is a good compromise, but the sign is softened up, and it's not a perfect situation. He said it may be a better situation than the picture looks, but once it's done and put it, it'll blend in to the developed corner. He said he is in support of it.

Mr. Shaw asked if the drive-thru pharmacy sign was approved, it looks as if there are four wall signs.

Mr. Falk said that most of these drive-through signs are just looked at as directional signs, they are usually small and they give drivers direction in the site. He said that he'd look into it.

Atty. Sokul said that the ordinance requirement for signage on Main Street is total square footage, not the total number of signs. He said that they requested a variance to allow of 112 square feet on that Main Street frontage, where a maximum of 100 square feet is allowed. He said that the signs do add up to 112 square feet on the Main Street frontage.

Mr. Shaw said when he looks at the Main Street elevation, he sees two signs that add up to 112 for that wall, but there are two other wall signs.

Atty. Sokul said that there is a maximum of 285, where 200 square feet is allowed.

Mr. Shaw said that there is a maximum of three wall signs allowed, and it looks as if there are four.

Atty. Sokul said that he didn't apply for a specific number of signs.

Mr. Reppucci asked about variance number 5.

Atty. Sokul said it was a sign for the eastern side of the building. He said he asked for relief on the square footage of the wall signs.

Mr. Shaw said that we advertised for three wall signs, and there will be four.

Mr. Reppucci said that Atty. Sokul didn't have that as part of his proposal, but the square footage was in his proposal. He said that the City advertised it for three wall signs.

Atty. Sokul said that he believes that his application was clear.

Mr. Reppucci read an excerpt from the sign ordinance relative to the D-1/MU zone. He said it's best to not solve this right now.

Mr. Reppucci said that everyone wants this to look right, CVS and the City. He asked if CVS would consider having a CVS logo on that south facing wall, so that people see it, and not having the pylon sign right behind the Southern New Hampshire sign.

Atty. Sokul said in looking at the plan coming from the south, he said that he believed that they lowered the height too much, it would look better a little taller. He said that with the windows that the City requested, and the trees, there's really no other place to put it. He said he didn't know if CVS would agree to that. He said it's still an effective CVS sign. He said that a wall sign up higher may not be as effective.

Further discussion ensued.

**MOTION** by Mr. Shaw to approve the variance application as advertised on behalf of the applicant, for variances number 2 and 3. Mr. Shaw said that the applicant has modified their request so the approval is with the modified dimensional values of 15 feet for the height, and for 50.56 square feet of sign area. He said that the area variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, there was quite a bit of testimony regarding the location of this building, being at Main Street and East Hollis Street, at the center of downtown, with multiple facades for the building. He said that other wall signs have already been approved for this business, and locating it from different travelling directions, travelling north as you

approach the site, there is no signage on that façade, and no identifying aspects to the building or its business, and the ground sign would allow for that. He said that the height of the sign, in conjunction and with context of the Southern New Hampshire Medical Center and the parking area, and the placement of those two signs in relative close proximity, if this sign were is not of a greater height, it will be partially or mostly obscured by the other sign, and part of the relief of the height of the sign is the roof cap of the sign, but it's not really part of the text of the sign. He said that having a wall sign on that façade would not necessarily provide a better solution.

Mr. Shaw said that it's within the spirit and intent of the ordinance, to allow identification of the building. He said that there is no evidence of anything contrary to the property values, it is not contrary to the public interest, and substantial justice is served.

**SECONDED** by Mr. Boucher.

**MOTION CARRIED 3-2** (Mr. Reppucci, Mr. Currier).

**2. Harbor Homes Inc. (Owner) 45 High Street (Sheet 79 Lot 127) requesting variances to allow two electronic message centers as wall signs, one facing High Street, one facing Factory Street. D-1/MU Zone, Ward 4.**

Voting on this case:

Gerry Reppucci  
Jack Currier  
J.P. Boucher  
Rob Shaw  
Kathy Vitale

Attorney Brad Westgate, Winer & Bennett, P.A., 111 Concord Street, Nashua, NH. Atty. Westgate said that they are seeking a variance for two wall signs that would be electronic changing message signs. He said that the Board has copies of the signs that are proposed.

Atty. Westgate stated that one of the signs would be facing High Street, one facing Factory Street. He said that the first sign would be about 75 square feet in area, the second sign would be

about 30 square feet in size. He said that the ordinance states that at least one-half of the sign has to be fixed letters, and the other half can be the electronic sign. He said that the whole sign would be electronic.

Atty. Westgate said that this is the corporate headquarters of Harbor Homes, and has been since they purchased the building. He said that they have had a variety of other functions and programs, and now operate it as a health and wellness center for a broad range of medical and dental services provided to low and very low income people who qualify for those services. He said that given the nature of the clientele, this type of sign can identify seasonal services and programs for both new and prospective patients will be utilizing the facility. He said that over 2,000 patients were serviced last year, mostly from the general location of the downtown.

Atty. Westgate said that this type of sign makes sense at this location, it's the kind of facility that doesn't have the kind of static programming, needs change, and different messages need to be put out on the electronic message center.

Atty. Westgate said that besides the Dalainas House across the street, the only other residential units are some apartments above the commercial buildings on West Pearl Street.

Atty. Westgate said that the request meets the code as far as not being contrary to the public interest to allow this type of sign at this location, as they need to announce to the patient base that the wellness center exists and it can list the services provided.

Atty. Westgate said that for the spirit of the ordinance, as the purposes of the downtown districts are for pedestrian oriented areas, and there are a variety of uses. He said that they predominantly service a pedestrian oriented clientele, so the information that is provided by Harbor Homes is critical to get the message out.

Atty. Westgate said it would be contrary to the public interest if the proposed variance couldn't be utilized, and the purpose of the downtown districts is to utilize pedestrian oriented uses.



Atty. Westgate said that for substantial justice, it will be done to the property owner by granting the variance to allow the two electronic message centers, they are not obtrusive visually, and cannot be seen from Main Street, and the size of the signs meet all the dimensional criteria of the ordinance, and the reason why they are here is due to Mr. Falk's determination that electronic message centers are not permitted as wall signs, but they are as a portion of free-standing signs in certain zones, not all zones.

Atty. Westgate said that the proposed use will not devalue the property values of surrounding properties. He said that due to the size of the signs, the building's isolated nature, and the abutting parking garage, there is no abutting property value concerns. He said that Randy Turmel, a local real estate broker, has submitted a letter stating that the abutting property values will not be affected.

Atty. Westgate said that they believe that special conditions exist for the hardship criteria. He said that the building is a long block away from Main Street, it is set back from High Street, surrounded by City-owned property primarily, and non-residential property nearby. He said that with the nature of the use and the services they provide, it is a reasonable use. He said that with the existing sign, with the manually changing letters, it just doesn't work, it's not practical, and last year with the snow banks being so high, it was too difficult to even reach the sign safely.

Mr. Reppucci said that there are really two issues, these signs are not allowed in the D-1/MU zone, and not for a wall sign either.

Atty. Westgate said that is correct, wall signs are allowed, and if this were a static sign, they wouldn't be here, they are here because it's an electronic changing sign.

Mr. Currier said that he didn't agree that this is a long block away from Main Street, he said that the property is in the D-1 Zone. He said that the property has a good parking lot, too. He said he's struggling with the uniqueness of the building to allow it to have an electronic changing message sign.

Atty. Westgate said that the uniqueness of the building is pretty apparent, in the sense that the parking lot is a unique

characteristic, as is the parking lot to the east and the parking garage.

Ms. Vitale asked how often the sign would be changed.

**SPEAKING IN FAVOR:**

Peter Kelleher, Harbor Homes, 45 High Street, Nashua, NH. Mr. Kelleher said the message would change a couple times a week. He said it's a mechanism for them to better communicate with their patients. He said he couldn't see them changing it three times a week at the most.

Tim Twombly, 120 East Hobart Street, Nashua, NH. Mr. Twombly said that Harbor Homes is unique and provide good work for some of the low income residents that utilize their services, and supports their request.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

Ms. Vitale said that schools use these signs a lot. She said that the signs are pushed up relatively high on the building. She said she can see the sign on the High Street side.

Mr. Currier said that the Factory Street and High Street elevations are distinctly different. He said that on the High Street side, there's a low audience for that, it's really displaying to the backs of the buildings on East Pearl Street and a parking lot, and not many people are going to see it, as not many folks travel down High Street, unlike Factory Street. He said the one on Factory Street has a huge volume of traffic, and if anything, it will get more, and it will be visible to the residents of Clocktower Place.

Mr. Reppucci said that this is the technology today. He said that the manually changing letters on signs is not state-of-the-art anymore. He said usually, it's not the sign itself, it's the misuse of these signs, it's the graphics and constantly changing elements. He said the only one he can recall that is a wall sign is the smoke shop on Spit Brook Road. He said when they change rapidly, they may be distracting. He said it's within the Boards purview to limit the number of changes on the sign, and in doing so, it's going to be less distracting. He

said it sounds like they're going to use the sign exactly how it's supposed to be used.

Mr. Shaw said that justification for supporting this request is in the nature of their work that Harbor Homes does, and the nature of the clientele that they are serving. He suggested a stipulation that is not specific to this business, but perhaps to a non-profit medical, dental care type of business, not a retail place. He said part of the justification is the nature of business and the function of the message that they're trying to get out to their clientele, and since this is a wellness center and other provisional services, some sort of stipulation on the EMC is warranted.

Mr. Reppucci questioned whether or not that would be enforceable. He said he's supportive of the sign, but stated that a stipulation such as just described would be hard to enforce.

Mr. Currier said that the stipulation would be worthwhile, he said that the stipulation could be crystal clear, and it's enforceable.

Mr. Boucher said that he is in favor of the application, and understands it for a social service type of agency.

Mr. Reppucci said for the sign for the eye doctors office on Coliseum Avenue, he sees this quite differently. He said he was opposed to that sign, because what they wanted is not allowed anywhere in the City. He said that is a big difference between that type of application and this application. He said that the proposed sign is allowed in certain areas, so it's different.

Mr. Currier said that the proposed sign will not have any graphics.

Mr. Reppucci said the top is static, and the bottom is just text.

Mr. Shaw said that the sign will have three lines of text, and by testimony, there will be conformity to the Code. He said that a single change every five or fifteen minutes will not be much at all. He said he'd be fine with supporting it with some sort of stipulation with some kind of time cycle to it.

Ms. Vitale said that her original thought was to keep it at once a day, a new sign every day, you won't really notice it. She said once an hour is good too, it would give them the ability to change the sign in case anything comes up in the City that they need to notify their clientele.

Mr. Reppucci asked about a 15 minute interval.

Ms. Vitale said once an hour is pretty often to get a message out, an hour is more than enough.

Mr. Currier said that the applicant suggested three times a week.

Mr. Boucher said he'd support any consensus that the Board decides upon. He said that they may have an occasion to have two or three different messages a day on the sign.

**MOTION** by Mr. Shaw to approve the variance application as advertised on behalf of the owner. Mr. Shaw said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, by testimony it is a somewhat isolated part of the downtown district, and High Street and Factory Streets are both one-way streets, there are multiple parking lots and city properties that are around this structure as well as little residential use, and the clientele and the purpose of the function of this facility is to provide key information to clientele for medical and wellness care, and a lot of pedestrian traffic in the downtown.

Mr. Shaw said that it's within the spirit and intent of the ordinance, there was a letter submitted that it will not affect property values. He said it is not contrary to the property values, it is not contrary to the public interest, and substantial justice is served to the owner.

Mr. Shaw said that one stipulation is that the use of the sign is for a non-profit social services work, and the other is that the frequency allowed for the changing of the message will be restricted to 15 minutes.

**SECONDED** by Mr. Boucher.

**MOTION CARRIED 4-1.** (Mr. Currier)

**3. Robert D'Ortona Jr. (Owner) 40 Linton Street (Sheet 129 Lot 254) requesting the following variances: 1) to encroach 2'-4" into the 6 foot left side yard setback; and 2) to encroach 4'-11" into the 6 foot required rear yard setback - both requests to maintain a 14'x40' shed. RA Zone, Ward 7.**

Voting on this case:

Gerry Reppucci  
Jack Currier  
J.P. Boucher  
Kathy Vitale  
Rob Shaw

Attorney Gerald Prunier, Prunier & Prolman P.A., 20 Trafalgar Square, Nashua, NH. Atty. Prunier passed out a handout to the Board. He said that the variance for the side is correct, the one on the rear is actually less, it's less than two feet, it's 1'-11", so it's less of an incursion.

Atty. Prunier said it's a large shed that was bought and placed on the property, he was under the impression that the company got all the permits necessary to construct it, but as it turns out, a permit wasn't applied for. He said that the building is implanted in the ground, with rebar, nails over a foot long. He said it really can't be moved without tearing the building apart. He said the building is uniquely situated, it's in Sunset Heights, so the back yard is toward the school parking lot, and the other side is a big field. He said that both of the affected abutters have written letters of support for the shed.

Mr. Shaw said that there appears to be just a little room to move the shed, but it seems like it would hit the house if it were to meet the rear yard setback.

Atty. Prunier said that moving it a couple feet wouldn't be worth it, nothing would be really gained.

**SPEAKING IN FAVOR:**

Letters from both 36 and 37 Linton Street, Nashua, NH. Both letters are written in support.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

**MOTION** by Mr. Currier to approve the variance application as advertised on behalf of the owner. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, which is a shed that is pushed a little closer than the 6 foot requirements in order to optimize the use of the rear yard.

Mr. Currier said that it's within the spirit and intent of the ordinance, particularly with the school property in the back, and abutter support of the request. He said it is not going to negatively impact surrounding property values, it is not contrary to the public interest, and substantial justice is served.

**SECONDED** by Ms. Vitale.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**4. Hol-Cot Realty, LLC (Owner) 167-169 West Hollis Street (Sheet 87 Lot 33) requesting variance for minimum lot area, 22,924 square feet existing, 62,228 square feet required - to convert one unit from an office use to a residential unit. RB Zone, Ward 6.**

Voting on this case:

Gerry Reppucci  
Jack Currier  
J.P. Boucher  
Kathy Vitale  
Rob Shaw

Attorney Gerald Prunier, Prunier & Prolman, P.A. 20 Trafalgar Square, Nashua, NH. Atty. Prunier passed out a handout to the Board. He said in Tab A, there are three pictures of the area of the building, it's the building in the back where the cars are parked. He said the building was built in 1900, according to the Assessor's cards. He said at one time, it was used as an office for a plumbing business. He said that after that, Etchstone Properties bought the property and they also had their office there. He said that when the present owners bought it,

it was ten units, no office. He said that at one point, the office changed to an apartment. He said that apartments are allowed in that district, and the building has been there for a long time. He said that the proposed apartment is less of an intensive use than the office. He said that they're not adding any new building area to the lot, it's all existing space. He said that the City thought the best way to take care of this is to come to the Board, so that the property can be taxed properly and all the records get straightened out.

Mr. Currier asked to confirm that the parking garage and existing parking hasn't been a problem.

Atty. Prunier said it hasn't been a problem.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

**MOTION** by Mr. Currier to approve the variance application as advertised on behalf of the applicant. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, which is that this has been operating as a nine-unit and then an office, now it would be ten units without an office, so it's operating at slightly less of an intensive use, and it has been, and although it has a lot less square footage of land as required, it has been operating this way for decades, and there is parking on site, and the Board is not aware of any issues with it.

Mr. Currier said that the use is within the spirit and intent of the ordinance, there is no negative impact to surrounding parcels, it is not contrary to the public interest, and substantial justice is served.

**SECONDED** by Ms. Vitale.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**5. Joseph J. Butler, Trustee (Owner) 66 West Hollis Street (Sheet 84 Lot 29) requesting variance to encroach 3'-9" over the front property line (facing West Hollis Street), to construct a new roof awning to replace original awning destroyed by fire. GB Zone, Ward 4.**

Voting on this case:

Gerry Reppucci  
Jack Currier  
J.P. Boucher  
Kathy Vitale  
Rob Shaw

Hoyt Cousins, Architect for the project. Mr. Cousins said that there was a fire in the building, and right now, the building is being renovated, to contain the same number of dwelling units, four on the first floor, three on the second and three on the third floor, just as what was there before. He said that the owner has owned the building for about 35 years, and the request is for a simple element of the building.

Mr. Cousins said that the existing awning roof was about 1'-6" lower, and it projects 1'-7" less than the proposed one. He showed a picture from last August, shortly after the fire, and it shows the old awning before it was stripped off during the renovation. He said that they obtained building permits to get the building weather tight, for roof trusses and rough framing, and then found out from the City that there was no approval for the final exterior finish, and it turned out that the awning extended out further than the old one did, and it was thought that it was a similar projection and could go forward with it, but it was determined that a variance was needed because the incursion was further past the property line.

Mr. Cousins said that they could cut the awning back a little bit to match what was there before, but feel that the proposed one is better, it is a little higher and will function better than the previous one. He said it will more effectively shelter the front entrances to the building and the windows as well. He said it will provide more cover in inclement weather. He said it is as much restoration as it is renovation. He said that extra brackets were added, so it will be sturdier as well.



Mr. Reppucci asked how the water comes off the edge, and if it will make the sidewalk any icier.

Mr. Cousins said he spoke with Jeanne Walker, who had the same concern. He said that DPW's response was that they've maintained this sidewalk for over 35 years, with ice and snow, and it won't make much difference if the overhang is slightly more. He said that the maintenance of snow and ice is a high priority. He said that the roof is pretty high, it's 11'-4", so it doesn't interfere with snow plows or any other equipment.

Mr. Currier asked if there was a thought of putting a gutter on it.

Mr. Cousins said that a gutter itself wouldn't be any detriment, but it's what you do with the water. There would be a concentrated amount of water wherever it would come out from the downspouts would result in a worse ice problem. He said that the pitch on the awning is a moderate pitch.

Mr. Reppucci asked if there are any other approvals required besides the Zoning Board.

Mr. Cousins said no, the final approval would be subject to the Zoning Board's decision.

**SPEAKING IN FAVOR:**

No one.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

**MOTION** by Mr. Currier to approve the variance application as advertised on behalf of the owner. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, which is a rehabbed awning more so than a re-build. He said that the applicant is seeking to return a canopy, albeit slightly bigger than it was, and the goal is to have a tasteful, period-type canopy which is 1'-7" larger than the existing awning, and this awning is a little higher.

Mr. Currier said that it's within the spirit and intent of the ordinance, He said it is not going to negatively impact

surrounding property values, it is not contrary to the public interest, and substantial justice is served.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**6. Bible Baptist Church (Owner) 117 Fairview Avenue (Sheet 105 Lot 5) requesting variance for minimum open space, 50% required, 51.7% existing - 41% proposed - to construct a 5,800 square foot building addition. R9 Zone, Ward 6.**

Voting on this case:

Gerry Reppucci  
Jack Currier  
J.P. Boucher  
Kathy Vitale  
Rob Shaw

Pastor Steven Bates, Bible Baptist Church, 117 Fairview Avenue, Nashua, NH. Pastor Bates has asked for a church member to make the presentation.

Colleen O'Neill, 122 East Hobart Street, Nashua, NH. Mrs. O'Neill said that the addition is for additional church members, and there has been a lot of growth in the church, and space is needed for worship and classroom space. She said that the Fire Department has also reviewed this request.

Mrs. O'Neill said that presently, the church occupies about 49% of the lot, and with the addition, it will be 59%, as the addition will be about 5,800 square feet in area. She went over all the points of law for the variance.

Mr. Reppucci asked if there is sufficient parking.

Mrs. O'Neill said that there is sufficient parking on site now, the plan is to raze the structure so that there is additional parking underneath the building, 15 or so spaces, in addition, they are working with the school department to use additional spaces across the street.

Mr. Currier asked what percentage of people use the Fairview Avenue entrance.

Mrs. O'Neill said about 95% of the people enter from Caldwell Avenue.

**SPEAKING IN FAVOR:**

Joe Day, 5 North Second Street, Nashua NH. Mr. Day said that he is a deacon at the church, and is in favor of the request.

Linda Twombly, 120 East Hobart Street, Nashua NH. Mrs. Twombly said it is crowded there now, and is in support of the request.

Letter from Leslie Gamache 68 Caldwell Road, Nashua NH, in support.

Patricia Podvojski, 43 Northwood Drive, Nashua, NH. Mrs. Podvojski said that she is in favor of the request.

Tim Twombly, 120 East Hobart Street, Nashua, NH. Mr. Twombly agreed with other speakers and is in favor of the variance.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

**MOTION** by Mr. Currier to approve the variance application as advertised on behalf of the applicant. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, which is a church with a growing membership.

Mr. Currier said that the use is within the spirit and intent of the ordinance, the 9% reduction in open space will not be negative impact to surrounding parcels, it is not contrary to the public interest, and substantial justice is served.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**7. Robert & Demetria Nadeau (Owner) Randy Guilbault d/b/a Jenna Auto Sales (Applicant) 19 D Street (Sheet 40 Lot 14) requesting use variance to allow for auto sales of no more**

**than 10 cars at any given time in existing building. GI  
Zone, Ward 7.**

Voting on this case:

Gerry Reppucci  
Jack Currier  
J.P. Boucher  
Kathy Vitale  
Rob Shaw

Randy Guilbault, Jenna Auto Sales, Nashua, NH. Mr. Guilbault has had Jenna Auto Sales for over 25 years as a bonded dealer. He said that up until this year, he was in the Landmark building, and it was all approved by the State. He said that in the past, you could be a bonded dealer only, and not have to keep your cars at your location. He said that in 2016 it changed, and now is looking to occupy 19 D Street to keep the cars there at the same location as the office. He said that the State put everybody under the same umbrella with retail dealers, which means that you have to have your cars at your location.

Mr. Guilbault said that the building has a cement floor, and it was used before as the American Seat Cover Company, it has three bays, and it's designed for an auto type use. He said the business is just himself, no employees, it's a very simple operation.

Mr. Reppucci asked if there will be any mechanical repairs there.

Mr. Guilbault said no, mainly cleaning and cosmetics, but no hard work like that.

Mr. Currier asked if the place is going to be filled up with cars, and where would customers park.

Mr. Guilbault said he asked for ten cars, but usually its 6-8 cars, and whatever will fit inside the garage will go inside. He said he works off of appointments, and advertises on Craigslist and cell phone. He said he keeps it pretty simple.

Mr. Reppucci said that this will have to go before the Planning Board. He said it's a change of use to the property, so a site plan will be required. He said that Millyard Auto, right across

the street on East Hollis Street, went through the exact same process not too long ago. He said that if the ZBA approves this case tonight, it wouldn't necessarily give access to occupy the property and move the cars in.

Mr. Guilbault asked that even though they wouldn't be doing any changes to the building, would it still require going to the Planning Board.

Mr. Reppucci said it'll be between you and the Planning Department, but expects that it will require a site plan.

Mr. Currier said that the site plan will offer a clearer design of where parking spaces are, it's a little more formalized. He said that the Zoning Board looks at the overall use, which is not an allowed use in the GI Zone. He said that there is a level of approval after the Zoning Board.

Mr. Reppucci said that he doesn't want there to be any misunderstanding, that the ZBA's granting of this variance does not give license to just go and do this, there is still the Planning Board process, unless the Planning Department tells you otherwise, but that's up to the Planning Department, and expects them to agree that it will require Planning Board.

Mr. Reppucci asked if they would be comfortable with a stipulation that there will not be any repairs there, no mechanical work to be done.

Mr. Guilbault said that would be fine.

**SPEAKING IN FAVOR:**

Ben Nadeau, 71 Kimball Hill Road, Hudson NH. Mr. Nadeau said that his family has owned the site since the early 1970's, and over the years, they've done sales, and there are multiple car lots in the area, and the applicant will be a one-person operation. He said that they used to have seven employees, and this will be a less burden on the parking. He said he was not under the impression that he needed to go to the Planning Board.

Mr. Reppucci said that it's not up to the Zoning Board to either tell or determine if someone needs to go to the Planning Board, it's the Planning Department. He said that he'll need to take up that issue with the Planning Department.

Mr. Falk said that Millyard Auto came before both the Zoning Board and the Planning Board, and they had the exact same use.

Mr. Nadeau mentioned about six other locations nearby that sell cars.

Mr. Guilbault said he's going to do some cosmetic work to the building to make it look nicer and more presentable, which will help the neighborhood.

Mr. Boucher said that in general, he is ok with the application. He said that the proposed business is less intensive than some of the other nearby shops, it's clear that he's the sole owner, and it doesn't appear as if it will have a lot of traffic. He said that any issues with parking should be brought up at the Planning Board.

Mr. Currier said he's ok with the application, and said that he'd be ok if they would do mechanical work.

Mr. Shaw said he's ok with the application, it has three garage bay doors, and it looks like a use for automotive. He said that the use is fitting.

Mr. Reppucci said that he brought up that stipulation because it was advertised as a car dealership.

**SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:**

No one.

**MOTION** by Mr. Reppucci to approve the variance application as advertised on behalf of the applicant. Mr. Reppucci said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance, it is a change of use of the building which requires the variance, and the Board finds that it is a similar use, there have been vehicle-related businesses in the past, and it's consistent with that use.

Mr. Reppucci said that the use is within the spirit and intent of the ordinance, there is no negative impact to surrounding

parcels, it is not contrary to the public interest, and substantial justice is served.

Mr. Reppucci said that for special conditions, no noise generating repair work done on the site on vehicles.

**SECONDED** by Mr. Shaw.

**MOTION CARRIED UNANIMOUSLY 5-0.**

**MISCELLANEOUS:**

**REGIONAL IMPACT:**

The Board did not see any cases that have regional impact.

**REHEARING REQUESTS:**

None.

**MINUTES:**

None.

**BYLAWS:**

Mr. Reppucci said that he has a letter that will go to Corporation Counsel about signage, and ultimately would like to meet with them to go over some details.

**ADJOURNMENT:**

Mr. Reppucci called the meeting closed at 10:14 p.m.

Submitted by: Mr. Boucher, Clerk.

CF - Taped Hearing